

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on **Elections and Apportionment**, to which was referred Senate Bill 179, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 9, line 35, after "after" insert ":
- 2 **(A)".**
- 3 Page 9, line 35, delete "occurs." insert "occurs, **if IC 5-8-6 does not**
- 4 **apply; or**
- 5 **(B) the town clerk-treasurer receives the notice required**
- 6 **under IC 5-8-6."**
- 7 Page 10, line 34, after "after" insert ":
- 8 **(A)".**
- 9 Page 10, line 34, delete "occurs." and insert "occurs, **if IC 5-8-6**
- 10 **does not apply; or**
- 11 **(B) the president of the town council receives the notice**
- 12 **required under IC 5-8-6."**
- 13 Page 11, line 34, after "after" insert ":
- 14 **(A)".**

1 Page 11, line 34, delete "occurs." and insert "occurs, **if IC 5-8-6**
 2 **does not apply; or**

3 **(B) the town clerk-treasurer receives the notice required**
 4 **under IC 5-8-6."**

5 Page 13, line 14, after "after" insert ":

6 **(A)".**

7 Page 13, line 14, delete "occurs;" and insert "occurs, **if IC 5-8-6**
 8 **does not apply; or**

9 **(B) the county auditor receives the notice required under**
 10 **IC 5-8-6;"**.

11 Page 14, line 28, after "after" insert ":

12 **(A)".**

13 Page 14, line 28, delete "occurs;" and insert "occurs, **if IC 5-8-6**
 14 **does not apply; or**

15 **(B) the county auditor receives the notice required under**
 16 **IC 5-8-6;"**.

17 Page 17, between lines 2 and 3, begin a new paragraph and insert:
 18 "SECTION 25. IC 5-8-1-37 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) As used in this
 20 section:

21 **(1) "Felony"** means any crime punishable by imprisonment for more
 22 than one (1) year in any correctional facility.

23 **(2) "Public officer"** means any person, elected or appointed, who
 24 holds any state, county, township, city, or town office.

25 (b) Any public officer convicted of a felony during ~~his~~ **the officer's**
 26 term of office shall:

27 (1) be removed from office by operation of law when ~~he~~ **the**
 28 **officer** is sentenced for the felony; and

29 (2) not receive any salary or remuneration from the time ~~he~~ **the**
 30 **officer** is sentenced for the felony.

31 (c) If the conviction is reversed, vacated, or set aside, and the
 32 officer's term has not expired, the officer shall:

33 (1) be reinstated in office; and

34 (2) receive any salary or other remuneration which ~~he~~ **the officer**
 35 would have received had ~~he~~ **the officer** not been removed from
 36 office.

37 (d) If the conviction is reversed, vacated, or set aside, and the
 38 officer's term has expired, ~~he~~ **the officer** shall receive any salary or

1 other remuneration which ~~he~~ **the officer** would have received had he
 2 not been removed from office.

3 (e) Every vacancy in a public office caused by the removal of a
 4 public officer under this section shall be filled as provided by law. If a
 5 convicted public officer is reinstated, the person filling the office during
 6 the appeal shall cease to hold the office.

7 **(f) This subsection applies whenever:**

8 **(1) the court imposes on a public officer a sentence for a**
 9 **felony, as referred to in subsection (b); and**

10 **(2) a vacancy occurs in a state, county, township, city, or town**
 11 **office as the result of the court's sentence.**

12 **The court must file a certified copy of the sentencing order with the**
 13 **person who is entitled under IC 5-8-6 to receive notice of the death**
 14 **of an individual holding the office. The person receiving a copy of**
 15 **the sentencing order must give notice of the vacancy in the same**
 16 **manner as if the person had received a notice under IC 5-8-6. The**
 17 **person who is required or permitted to fill the vacancy must**
 18 **comply with IC 3-13.**

19 **(g) This subsection applies if a public officer is reinstated in**
 20 **office under subsection (c). The court must file a certified copy of**
 21 **the order reversing, vacating, or setting aside the conviction with**
 22 **the person who is entitled under IC 5-8-6 to receive notice of the**
 23 **death of an individual holding the office. The person receiving a**
 24 **copy of the order must give notice of the reinstatement in the same**
 25 **manner as notice of a vacancy would be given under IC 5-8-6. In**
 26 **addition, the person receiving a copy of the order must also give**
 27 **notice to the person who was selected to fill the vacancy before the**
 28 **reinstatement occurred."**

29 Page 18, line 8, delete "or".

30 Page 18 line 9, after "IC 3-13-11;" insert "**or**".

31 Page 18, between lines 9 and 10, begin a new line block indented
 32 and insert:

33 **"(9) IC 20;"**.

34 Page 21, after line 2, begin a new paragraph and insert:

35 "SECTION 32. IC 20-25-3-4, AS ADDED BY P.L.2-2005,
 36 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2005]: Sec. 4. (a) The board consists of seven (7) members.
 38 A member:

(1) must be elected on a nonpartisan basis in primary elections held in the county as specified in this section; and

(2) serves a four (4) year term.

(b) Five (5) members shall be elected from the school board districts in which the members reside and two (2) members must be elected at large. Not more than two (2) of the members who serve on the board may reside in the same school board district.

(c) If a candidate runs for one (1) of the district positions on the board, only eligible voters residing in the candidate's district may vote for that candidate. If a person is a candidate for one (1) of the at-large positions, eligible voters from all the districts may vote for that candidate.

(d) If a candidate files to run for a position on the board, the candidate must specify whether the candidate is running for a district or an at-large position.

(e) A candidate who runs for a district or an at-large position wins if the candidate receives the greatest number of votes of all the candidates against whom the candidate runs.

(f) Districts shall be established within the school city by the state board. The districts must be drawn on the basis of precinct lines, and as nearly as practicable, of equal population with the population of the largest district not to exceed the population of the smallest district by more than five percent (5%). District lines must not cross precinct lines. The state board shall establish:

(1) balloting procedures for the election under IC 3; and

(2) other procedures required to implement this section.

(g) A member of the board serves under section 3 of this chapter.

(h) **In accordance with subsection (k)**, a vacancy in the board shall be filled temporarily by the board as soon as practicable after the vacancy occurs. The member chosen by the board to fill a vacancy holds office until the member's successor is elected and qualified. The successor shall be elected at the next regular school board election occurring after the date on which the vacancy occurs. The successor fills the vacancy for the remainder of the term.

(i) An individual elected to serve on the board begins the individual's term on July 1 of the year of the individual's election.

(j) Notwithstanding any law to the contrary, each voter must cast a vote for a school board candidate or school board candidates by voting

1 system or paper ballot. However, the same method used to cast votes
 2 for all other offices for which candidates have qualified to be on the
 3 election ballot must be used for the board offices.

4 **(k) If a vacancy in the board exists because of the death of a**
 5 **member, the remaining members of the board shall meet and select**
 6 **an individual to fill the vacancy in accordance with subsection (h)**
 7 **after the secretary of the board receives notice of the death under**
 8 **IC 5-8-6.**

9 SECTION 33. IC 20-26-4-4.5 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) This section applies to a
 12 school corporation subject to section 4 of this chapter.

13 **(b) The definitions in IC 3-5-2 apply to this section.**

14 **(c) If a vacancy in a school board office exists because of the**
 15 **death of a school board member, the remaining members of the**
 16 **governing body shall meet and select an individual to fill the**
 17 **vacancy after the secretary of the governing body receives notice of**
 18 **the death under IC 5-8-6 and in accordance with section 4 of this**
 19 **chapter.**

20 SECTION 34. IC 34-17-3-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If judgment is
 22 rendered in favor of a person who claims to be the person entitled to
 23 hold the office:

24 (1) that person shall proceed to exercise the functions of the office
 25 after the person has been qualified, as required by law; and

26 (2) the court shall order the defendant to deliver all the funds and
 27 records in the custody or within the power of the defendant,
 28 belonging to the office from which the defendant has been
 29 removed:

30 (A) to the person entitled to hold the office; or

31 (B) if a vacancy results, to the court to hold until a person is
 32 selected **under subsection (b)** to fill the vacancy.

33 **(b) This subsection applies whenever:**

34 **(1) the court renders a judgment under subsection (a) that an**
 35 **individual holding a public office (as that term is used in**
 36 **IC 34-17-1-1) is not entitled to hold that office; and**

37 **(2) a vacancy occurs in that office as the result of the court's**
 38 **judgment.**

The court must file a certified copy of the judgment with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the public office. The person receiving the copy of the judgment must give notice of the judgment in the same manner as if the person had received a notice of the death of the officeholder under IC 5-8-6. The person required or permitted to fill the vacancy that results from a removal under this section must comply with IC 3-13 or IC 20, whichever applies, to fill the vacancy.

SECTION 35. IC 35-50-5-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. (a) Whenever a person is convicted of a misdemeanor under IC 35-44-1, the court may include in the sentence an order rendering the person incapable of holding a public office of trust or profit for a fixed period of not more than ten (10) years.

(b) If any officer of a governmental entity is convicted of a misdemeanor under IC 35-44-1, the court may enter an order removing the officer from office.

(c) This subsection applies whenever:

(1) the court enters an order under this section that applies to a person who is an officer of a governmental entity (as defined in IC 35-41-1-12); and

(2) a vacancy occurs in the office held by the person as the result of the court's order.

The court must file a certified copy of the order with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving the copy of the order must give notice of the order in the same manner as if the person had received a notice of the death of the officeholder under IC 5-8-6. The person required or permitted to fill the vacancy that

1 **results from a removal under this section must comply with IC 3-13**
2 **or IC 20, whichever applies, to fill the vacancy."**.

3 Renumber all SECTIONS consecutively.
 (Reference is to SB 179 as printed January 20, 2005.)

and when so amended that said bill do pass.

Representative Thomas